

REMARKS

Upon entry of the present Amendment the claims under consideration are 1, 11, 13-14, and 21-35. Claims 27-35 are newly presented and represent dependent claims with similar subject matter to Claims 11-14, but depend from independent claims 23, 25 and 26. No Claims have been removed from consideration hereby. Applicants have hereby amended independent Claims 1, 21, 22, and 24 to more particularly point out in the body of the claims, as well as the preamble, that the present invention is drawn to a web of fluid distribution and retention which is integrally formed, i.e., not made from laminating a plurality of layers or post processing such as cutting or pressing techniques. The amendments are fully supported by the original specification, e.g., at page 6, line 14. Claim 13 has been amended to obviate the outstanding § 112 rejection. The Detailed Action of 29 June 2004 will now be addressed with reference to the headings and any paragraph numbers therein.

Examiner Interview Summary

Applicants previously submitted an Examiner Interview Summary for the interview of 06 April 2004 in their amendment dated 16 April 2004.

Claim Rejections -35 USC § 112

Per paragraph 2 of the Detailed Action, Claim 13 stands rejected as being indefinite for depending from a cancelled base claim. Claim 13 has hereby been amended to provide proper dependency from Claim 11 and obviate the current rejection.

Claim Rejections -35 USC § 103

Per paragraph 5 of the Detailed Action, Claims 1-22 stand as obvious over Tomita *et al.* (U.S. 5,618,610; hereinafter Tomita) in view of Everett *et al.* (U.S. 6,437,214; hereinafter Everett).

Applicants respectfully note that Tomita is drawn to a laminated web (see Abstract and Claim 1) for use as a wiper with the desired structure and functionality of “relatively noticeable undulations on the surfaces which well contribute to scrape stains off from an object to be cleaned.” (col. 5, line 40) so as to be suitable for use as a cleaning cloth for “objects” and not as an absorbent core for an absorbent article worn by human subjects.

Everett is drawn to an absorbent article with an absorbent core system having multiple layers, (see Abstract and Claim 1) i.e., the core as a whole is comprised of lamina.

Conversely, the present invention is drawn to “an in-line formed, non-laminated, air laid web suitable for use as a composite fluid distribution and fluid retention layer in a disposable personal care product. In order to make more clear that the present invention is claiming a non-laminated airlaid web unlike the cited art, the Applicants have inserted a limitation directed to the integral nature of the presently claimed web, as recited in the preamble, into the body of claims 1, 21, 22 and 24 as the last limitation. It is therefore respectfully suggested that neither of the references, singly or in combination, suggest the claimed invention and that the present rejections be withdrawn.

Applicants further believe that the contention of the Detailed Action that Tomita and Everett are properly combinable is invalid. According to the Detailed Action: “It

would have been obvious to one of ordinary skill in the art to have employed the varying concentration of superabsorbent within the fibrous material of Tomita et al. One of ordinary skill in the art would have been motivated to employ the varying concentration of superabsorbent by the teaching of Everett that this enhances the efficiency and absorbency of the absorbent product. (emphasis added)" (see page 3, line 12 of Detailed Action,)

Applicants respectfully submit that a *prima facie* case of obviousness has not been made because no suggestion for such a combination is found within the art itself. The suggestion comes entirely from an impermissible *post hoc* rationalization on the part of the Examiner. A suggestion or teaching to achieve the claimed invention in the art, rather than a vague motivation of improvement for a reference, is required for a *prima facie* case of obviousness to be made.

The suggested motivation is specious and made at a level of generalization too vague to support a *prima facie* case of obviousness. The cleaning wipe of Tomita is unconcerned with absorbency to any extent that the liquid retention capability of superabsorbent would be required. Thus, Tomita does not address the need for increased absorbency to suggest a combination with Everett.¹ Within Tomita there is also no plausible

1 Reiterating the Remarks of Applicants Amendment A, Tomita, unlike the present invention, is not concerned with liquid retention, noting at col. 3, line 37, that its wiper is "advantageous in that exudation of water or chemical fluid from the top and bottom surfaces 2, 3 is promoted..."

reference to a lack of “efficiency”² within the structure of Tomita’s cleaning wipe which would be cured by a graded addition of superabsorbent per Everett.³

Particularly with respect to Claims 21 and 22, in order to be properly combinable, the combination of references must reveal some likelihood of success for the combination. No such likelihood exists for the combination suggested by the Detailed Action. The Detailed Action makes no plausible assertion of how such a combination would achieve the claimed inventions in light of their obvious differences in structure, function, and method of manufacture when the references are viewed as a whole. Figures 8 and 9 of Everett, cited by the Detailed Action for the grading of superabsorbents, disclose that the superabsorbent is sandwiched between two permeable layers (see col. 17, line 13). The hydroentangling process of Tomita does not discuss the addition of superabsorbents. The Detailed Action apparently suggests that 1) a varying concentration of superabsorbent (per Everett) can be maintained when added loose between the webs 62 and 64 of Tomita (see Fig. 4) and then subjected to Tomita’s entangling processes;⁴ or 2) that the sandwich layers of

2 This “efficiency” is undefined by the Detailed Action.

3 Applicants reiterate the discussion of their previous amendments that Tomita does not discuss the use of its low basis weight areas as necessary for liquid distribution, does not discuss the use of its high basis weight areas as necessary for liquid retention, and does not discuss the use of superabsorbents within its web.

4 Applicants again note that the use of superabsorbents with a high pressure hydroentangling process as taught by Tomita would be not be a preferred manufacturing process owing to the necessity and expense of drying out superabsorbents within the web after the web has been formed. Applicants also reiterate that it is considered more likely that the high pressure water application over a supporting roll 69 (col. 4, line 11+) of Tomita would result in the breaking

Everett can be hydroentangled⁵ to achieve Tomita's structure and still maintain a graded distribution of superabsorbent. No likelihood of success for either mechanism of the suggested combination would be evident to a person having ordinary skill in the art without the present invention firmly in mind.

Clearly, the references themselves do not provide a suggestion of combinability, or any likelihood of success for the combination of Tomita and Everett. Rather, the Detailed Action has impermissibly used the claims as a template to pick and chose those sections of the cited art which meet the individual limitations, rather than viewing the present invention (and the cited references) as a whole. Therefore, a *prima facie* case of obviousness has not been made by the Detailed Action and the present rejections must be withdrawn.

For all the foregoing reasons, the Claims as presently amended are believed to be allowable over the art of record. A notice to that effect is earnestly solicited.

(disturbing) of fibers and that the high pressure water application of Tomita would not obtain undisturbed whole fibers at the material boundaries as required by limitation c) of each rejected independent Claim.

5 (or for that matter, mechanically entangled)

The Examiner is invited to call Applicant's undersigned attorney should the Examiner feel that any issues remain after entry of the present amendment.

As the present number of claims does not exceed the highest number of claims previously paid for, it is believed that no further fees are owing for the addition of Claims 27-25. However should the Office find that additional fees are required, the Commissioner is hereby authorized to charge to Deposit Account No. 19-3550 any additional fees required.

Favorable consideration is requested.

Respectfully submitted,



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